



## **CHIEF EXAMINER REPORT**

**JUNE 2025**

**LEVEL 6 UNIT 7 – FAMILY LAW**

The purpose of the report is to provide candidates and training providers with guidance as to the key points candidates should have included in their answers to the June 2025 examinations.

The 'suggested points for responses' set out points that a good (merit/distinction) candidate would have made.

Candidates will have received credit, where applicable, for other points not addressed.

### Chief Examiner Overview

Candidates who had studied across the Unit Specification should have been well prepared for this question paper. Reviewing past papers and Chief Examiner reports would also have helped candidates to structure their learning so as to be able to apply this in the examination.

In Section A, the strongest answers were able to both identify and explain the relevant law and answer the specific question. As noted in the last Chief Examiner report, where the question paper asks for critical analysis of a statement, the answer should explain the relevant law and then move on to evaluate the statement from different points of view and with reference to case law.

In Section B, many candidates were able to identify and apply relevant law. However, candidates should be prepared to address the scenarios as set and not rely on pre-learned answers that are not specific to the facts.

## Candidate Performance and Suggested Points for Responses

It is noted that the low numbers of candidates taking the Level 6 exams limits the scope for constructive feedback to be given and for firm conclusions to be reached. Therefore, feedback on candidate performance may be limited.

### Section A

Question 1(a)	10 marks
Higher-scoring papers were able to define the phrase 'equity follows the law' and discuss case law. Lower-scoring papers did not focus sufficiently on the question of how the cases and the concept link. Critical analysis of cases was expected.	
<b>Suggested Points for Response:</b>	
<ul style="list-style-type: none"> <li>• Explanation of the meaning of 'equity follows the law.'</li> <li>• Relevance of trusts of the family home to cohabitants and comparison with statutory rules for married and civil partners.</li> <li>• Explanation of the principles established in <u>Stack v Dowden</u> relating to sole and joint legal owners.</li> <li>• Relevant case law: the test in <u>Lloyds Bank v Rosset</u> and relevance to sole legal ownership cases.</li> <li>• Relevant case law on establishing a beneficial interest and quantification of shares (e.g., <u>Jones v Kernott</u>, <u>Gissing v Gissing</u>, <u>Pettit v Pettit</u>, <u>Oxley v Hiscock</u>).</li> <li>• Understanding of the difference between sole and joint legal ownership.</li> <li>• Legal route pursued through s14 TOLATA 1996</li> <li>• Case law continues to rely on the 'Rosset' principles and <u>Stack v Dowden</u>.</li> <li>• A reasoned conclusion.</li> </ul>	

Question 1(b)	15 marks
Higher-scoring answers noted inconsistencies in case law, the difficulty of the 'Rosset' text for sole-legal ownership cases, discussion of legislating for cohabitants and whether cohabitation agreements are the way forward. Lower-scoring answers did not engage in critical analysis, producing descriptive answers instead.	
<b>Suggested Points for Response:</b>	
<ul style="list-style-type: none"> <li>• Brief evaluative discussion of the case law and its conflicts/weaknesses (reference to Part a of this question).</li> <li>• Case law for discussion can include: <u>Stack v Dowden</u>, <u>Jones v Kernott</u>, <u>Lloyds Bank v Rosset</u>, <u>Fowler v Barron</u>, <u>Abbott v Abbott</u>, <u>Aspden v Elvy</u>, <u>Capehorn v Harris</u>.</li> <li>• Discussion of the Law Commission calls to reform the law for cohabitants in 2007.</li> <li>• Discussion of Cohabitants Rights Bill.</li> <li>• Discussion of whether TOLATA 1996 is sufficient.</li> <li>• Potential arguments in favour of status quo: couples have the option of marriage or CP, and protections offered; change to the law could be perceived as undermining marriage/CP; encourages non-legal owners (women in particular) to protect their property rights.</li> <li>• A reasoned conclusion.</li> </ul>	

Question 2	25 marks
Higher-scoring candidates were able to identify issues where individual autonomy is reflected: for example, under the Divorce, Dissolution and Separation Act 2020, and in the growing use of prenuptial and cohabitation agreements.	
Suggested Points for Response:	
<ul style="list-style-type: none"> <li>• Examples in family law where autonomy of parties is a growing theme:</li> <li>• Marriage and civil partnership: opposite and same sex unions covered by law: MCA 1973, CPA 2004.</li> <li>• Divorce and dissolution: no need to prove irretrievable breakdown of marriage and civil partnership; DDSA 2020, CPA 2004, MCA 1973, Owens v Owens.</li> <li>• Pre-nuptial agreements – Radmacher v Granatino and other cases.</li> <li>• Cohabitation agreements and growing use of these: Cohabitation Rights Bill, Law Commission 2007.</li> <li>• Domestic abuse law: DAA 2021 and ability of the victim to bring an action of a domestic abuse protection notice.</li> <li>• Article 8 ECHR – growing reliance on this in case law e.g., in S.8 CA 1989 case law.</li> <li>• S.10 Children and Families Act 2014 – MIAM –</li> <li>• Discussion of mediation as opposed to judge-made decisions</li> <li>• A reasoned conclusion.</li> </ul>	

Question 3	25 marks
Higher-scoring answers focussed on the legal issues of legal parenthood in different situations with the best answers then reflecting on whether changing conceptions of family are served by the current law. Lower-scoring answers confused legal parenthood with parental responsibility.	
Suggested Points for Response:	
<ul style="list-style-type: none"> <li>• Understanding of the relevant provisions of the HFEA 2008.</li> <li>• Explanation of methods of AR: egg donor, sperm donor, IVF; surrogacy et al.</li> <li>• Parent (apart from adoption) can have no biological connection to their child.</li> <li>• ‘Parent’ is not necessarily a ‘mother’ or ‘father’.</li> <li>• Family Law Reform Act 1969.</li> <li>• Surrogacy and assisted reproduction and challenges to understanding of parent.</li> <li>• S.33 HFEA 2008 – mother.</li> <li>• S. 35 – mother’s husband.</li> <li>• S.36 and 37 – agreed fatherhood conditions.</li> <li>• S.42 and 43 – female same sex couples and agreed female parenthood conditions.</li> <li>• HFEA 2008 – a child can only have 2 parents.</li> <li>• Surrogacy and commissioning parents – Surrogacy Arrangements Act 1985.</li> <li>• Sperm and egg donors.</li> <li>• Distinguish parental responsibility.</li> <li>• Relevant case law e.g., Re M (Sperm Donor: Father) (2003); Re X &amp; T (2012); etc.</li> <li>• Some discussion of the traditional concept of family in context of these developments (CPA 2004, GRA 2004, M (SCC) Act.</li> <li>• A reasoned conclusion.</li> </ul>	

Question 4	25 marks
<p>Higher-scoring candidates were able to identify some criminal and some civil aspects of the relevant law. However many needed to make the necessary comparison which is the heart of the question. Many candidates appeared to be well prepared on non-molestation and occupation orders. Candidates should understand the offence of controlling and coercive behaviour and the new Domestic Abuse Protection Notices and Orders under the Domestic Abuse Act 2021.</p>	
Suggested Points for Response	
<ul style="list-style-type: none"> <li>• Demonstration of understanding of the law on domestic abuse.</li> <li>• Criminal law approach including examples of criminal offences relevant to domestic abuse.</li> <li>• Civil law approach.</li> <li>• Associated persons – s62FLA 1996.</li> <li>• Discussion of non-molestation orders FLA 1996 s 42.</li> <li>• Discussion of occupation orders FLA 1996 ss 33-38.</li> <li>• Case law on occupation orders: Chalmers v John, B v B, Grubb v Grubb.</li> <li>• Case law on nonmolestation orders (1 mark each).</li> <li>• DAA 2021: intention to make the DAPN and DAPO the 'go to' orders for domestic abuse.</li> <li>• DAA 2021: allows the victim to make an application of a DAPN – or the police.</li> <li>• Domestic Violence, Crime and Victims Act 2004.</li> <li>• Protection from Harrassment Act 1007 – crime of harassment and tort of harassment.</li> <li>• Serious Crime Act 2015 s 76 – controlling and coercive behaviour.</li> <li>• A reasoned conclusion.</li> </ul>	

## Section B

Question 1	25 marks
<p>Higher-scoring answers required understanding of the Children Act 1989. Beginning with parental responsibility, higher-scoring answers would have considered whether a child of 12 is able to make medical decisions of such a nature as the question presented, using relevant case law. Candidates should then have considered how a court would approach the issue, discussing in detail the principles in S.1 Children Act 1989 and the welfare checklist in S1(3). Higher-scoring answers considered orders that could be applied for either by the parents or the child herself.</p>	
<p><b>Suggested Points for Response:</b></p> <ul style="list-style-type: none"><li>• Children Act 1989.</li><li>• Parental responsibility defined – S.3(1) CA 1989.</li><li>• Who has parental responsibility? S2 CA 1989.</li><li>• Application to Maeve and Angus.</li><li>• At what point can a child make their own decisions? Discussion of Gillick v W. Norfolk and Wisbech AHA (1985) – Gillick competence test.</li><li>• Relevant case law – e.g., Re A (a Minor) (Blood Transfusion) 1993 and whether the court can override a parent's wishes.</li><li>• Principles in S.1 CA 1989 – up to 4 marks (one for each principle).</li><li>• Application of the welfare checklist – S.1(3) CA 1989 – up to 5 marks.</li><li>• S.8 CA 1989 – either parent can apply for a specific issue or prohibited steps order.</li><li>• S10(4) CA 1989.</li><li>• Daisy can apply herself under S.10(8) CA 1989 with the permission of the court.</li><li>• A reasoned conclusion.</li></ul>	

Question 2(a)	10 marks
Higher-scoring answers required understanding of divorce law as amended by the Divorce, Dissolution and Separation Act 2020. Issues of procedure were generally well discussed. Some lower-scoring answers discussed the 'old' law, in this case by discussing adultery.	
Suggested Points for Response	
<ul style="list-style-type: none"> <li>• Explain that Tony can apply for a divorce order under the S1 MCA 1973.</li> <li>• Explain that both parties have been resident in England for 8 years and so there is jurisdiction for the divorce proceedings.</li> <li>• Single ground – irretrievable breakdown – S.1(1) MCA 1973 as amended by DDSA 2020.</li> <li>• S1(2) MCA 1973 repealed.</li> <li>• Owens v Owens and its effect on removing need for facts and evidence.</li> <li>• More than 1 year has passed since marriage – S.3(1) MCA 1973.</li> <li>• Explanation of procedure as per DDSA 2020 – up to 2 marks.</li> <li>• Gabriella cannot defend the application.</li> <li>• A reasoned conclusion.</li> </ul>	

Question 2(b)	15 marks
Most candidates were able to identify a reasonable package of orders. Application of the S.25 MCA 1973 factors should be done more thoroughly.	
Suggested Points for Response	
<ul style="list-style-type: none"> <li>• Tony can proceed with an application under MCA 1973.</li> <li>• Potential orders: periodical payments, pension order, property adjustment order (ss 22, 23 and 24 MCA 1973).</li> <li>• Application of S.25 (2)(a)-(g)MCA 1973 factors – up to 4 marks.</li> <li>• S25(1) MCA 1973 – does it apply to Alex?</li> <li>• Starting point: equal division, sharing and compensation as per Miller v Miller, McFarlane v McFarlane.</li> <li>• White v White.</li> <li>• Charman v Charman.</li> <li>• Inheritance and how it is dealt with.</li> <li>• What are 'marital assets'?</li> <li>• Is a clean break order appropriate? S25A 1973.</li> <li>• Reasonable package of orders.</li> <li>• A reasoned conclusion.</li> </ul>	

Question 3(a)	13 marks
Higher-scoring candidates were able to discuss the possibility of a non-qualifying ceremony and the case of <u>Akhter v Khan</u> (2020). The consequences of finding a non-qualifying ceremony as opposed to a void marriage should have been discussed.	
Suggested Points for Response:	
<ul style="list-style-type: none"> <li>• Answers should include: MA 1949 and formalities.</li> <li>• S. 11 MCA 1973 validity of marriage.</li> <li>• Both parties agreed to marry – so no issue of consent under S.12 MCA 1973 as per <u>Hirani v Hirani</u>.</li> <li>• Discussion of formalities – a Muslim ceremony on its own does not create a legal marriage.</li> <li>• Non-qualifying ceremony or non-marriage – key issue.</li> <li>• Divorce is not possible as the couple are not legally married.</li> <li>• Financial orders only possible for Aliyah if the marriage is void.</li> <li>• A reasoned conclusion.</li> </ul>	

Question 3(b)	12 marks
This question required understanding of the law under the Child Support Act 1991 and the procedures of the Child Maintenance Service. Most candidates were able to identify Ibrahim as the non-resident parent, and higher-scoring candidates went on to consider how matters would change if he lived abroad.	
Suggested Points for Response:	
<ul style="list-style-type: none"> <li>• Child maintenance is not based on marital status so Ibrahim will remain responsible for the children regardless of the outcome of the marriage issue.</li> <li>• Child Support Act 1991 – S.3(2) – responsibility of non-resident parent.</li> <li>• Child Maintenance Service.</li> <li>• Rate of payment – calculation.</li> <li>• Aliyah cannot apply for support if Ibrahim lives abroad.</li> <li>• Aliyah can only apply under the MCA 1973 for a child order if the marriage is deemed a void marriage.</li> <li>• Children Act 1989, Sch. 1 – periodical payments, lump sum or transfer or settlement of property order.</li> <li>• A reasoned conclusion.</li> </ul>	

Question 4	25 marks
A strong answer required knowledge and application of the S.8 CA 1989 orders, as well as the key principles and welfare checklist, but also more detailed understanding of the case law on international relocation. Many candidates were well prepared to answer this question.	
Suggested Points for Response:	
<ul style="list-style-type: none"> <li>• Children Act 1989.</li> <li>• Both George and Daniel have parental responsibility S.3(1) CA 1989.</li> <li>• S.8 CA 1989 orders explained.</li> <li>• Daniel could apply for a CAO for Annie to live with him or prohibited steps order to prevent George taking Annie to NY.</li> <li>• S.1 principles – explained and applied – up to 4 marks.</li> <li>• S.1(3) welfare checklist – application – up to 4 marks.</li> <li>• A reasoned conclusion.</li> </ul>	